ARGUMENT

OF

MR. HELM BRUCE

BEFORE

Senate Judiciary Committee

ON

Bill to Abolish Race Track Gambling in Kentucky

January 27, 1922.

Westerfield-Bonte Co., Incorporated, Louisville, Ky.

Mr. Chairman and Gentlemen of the Judiciary Committee:

Certainly since July 1, 1852, seventy years ago, and for how much longer time I do not know, the statutes of Kentucky have treated gambling as a vice and have denounced and punished it as a crime. This is, therefore, no new thought. It is not a fad of this day and generation. But certainly for nearly three-quarters of a century the people of this State, based on their experience and the experience of the English-speaking people, have recognized gambling as a great social evil, as a thing detrimental to the public welfare and something to be forbidden and punished as an offense against the public.

And surely in this day, and in this State, we are not called upon to prove the correctness of this long-settled proposition. If we were thus called upon, we could easily meet the requirement. In the Sermon on the Mount, the greatest sermon ever preached, it was said:

"By their fruits ye shall know them."

And we need only inquire as to what are the fruits of gambling to determine the nature of the practice. One may sit down and reason all he pleases as to what is the inherent evil in the habit of gambling. Why is it wrong for two men to sit across the table from each other and bet upon the fall of a card? Why is it wrong to win or lose money as the dice may roll?

Why is it wrong to bet on any uncertain event, provided only that betting is fairly done? We may ask ourselves such questions and we may reason upon the matter until Doomsday; but when we know, as we do know, that in the train of gambling follow loss of character, loss of position, loss of business, loss of home, poverty, disgrace and death; and that the sufferers are not only the gamblers themselves, but their fathers, mothers, husbands, wives and children, we know that the habit is evil; and however plausible may be the argument that there is no wrong in it, we know there is a vice somewhere in the argument; for such evil effects as I have mentioned do not flow from a good cause. But I will not pursue this line of reasoning further. I do not feel called upon to establish by original reason a truth which is universally accepted. It may be said that the evil consequences, to which I have referred, flow from the habit of gambling, and not from a single act. But again it is an old saying that you "sow an act and reap a habit; you sow a habit and reap a character; you sow a character and reap a destiny."

A striking thing to be observed in the statutes of our State, to which I have referred, is this: That while betting or gambling is itself denounced as a crime and punished as such, yet from the beginning the man who, by setting up a gambling machine, induces others to gamble, has always been treated as a far more heinous offender than the gambler himself, and has always been punished with a far heavier

penalty. And the reasoning upon which this difference in the law is founded is sound. The man who gambles is just one man, he commits a single offense; but the man who sets up a gambling machine and induces others to gamble through means of that machine, causes tens and hundreds of others to commit the offense which the statute denounces, and, therefore, he is in fact a far greater offender.

In the old compilation of the statute laws of Kentucky, known as the "Revised Statutes," which went into effect July 1, 1852, there was this provision of the law:

> "Whosoever shall set up, exhibit or keep for himself, or another, or shall procure to be set up, exhibit or keep any faro bank, gaming table, machine or contrivance used in betting, or other game of chance, whereby money or other thing is or may be won or lost shall be fined five hundred dollars and costs, and imprisoned until the same are paid, or imprisoned not more than one year, or both so fined and imprisoned, shall be deemed infamous after conviction and be forever thereafter disqualified from exercising the right of suffrage and from holding any office of honor, trust or profit." (Revised Statutes, Chap-42, §6.)

That remained the law from the time the Revised Statutes became effective, July 1, 1852, down to the time that a new compilation was made, known as the General Statutes, which became effective on December 1, 1873. And the statute that I have just quoted was adopted into this latter compilation, known as the "General Statutes," and remained the law in just

the form which I have read, being Chap. 47, §6 of the General Statutes, until it was amended by an act of March 25, 1886, for a purpose which I shall presently mention.

In the meantime, before the adoption of this amendment, the Court of Appeals of Kentucky, in the case of Commonwealth v. Simonds, 79 Ky. 618, decided in 1881, held that the machine known as "French pool" or "Paris mutuel" is a gambling machine within the meaning of the statute which I have quoted above. This decision, as I have said, was in 1881.

On March 25, 1886, a statute was passed for the manifest purpose of making the punishment more severe and a conviction under the statute more certain. This amendment is found in the General Statutes, Edition of 1887, page 692, from which it will be seen that whereas the law as it had been for the preceding thirty-five years fixed the penalty for setting up a gambling machine at five hundred dollars, or, in the alternative, imprisonment for not more than one year, or both fine and imprisonment, this amendment fixed the penalty without any discretion on the part of the jury at both fine and imprisonment, and raised the imprisonment from a term of not more than one year to a term of not less than one year nor more than three years, and furthermore required the imprisonment to be in the penitentiary, thus making the offense a felony, which it had not theretofore been.

But, while I have no personal knowledge of the fact, yet I think it is perfectly plain upon the face of this statute that it was amended at some time before it was passed by inserting an extraordinary exemption clause. At the close of the act is a provision so often found at the end of acts in the following language:

> "All acts and parts of acts in conflict with this act are hereby repealed."

This is a natural and frequent conclusion of an act. But following this sentence, which was doubtless the end of the original act as drafted, are inserted these words:

> "This act shall not apply to persons who may sell combination or French pools on any regular race track during the races thereon."

This is the first appearance of that extraordinary provision, and I leave to the judgment of those who know more of legislative history than I do as to how and when these words were inserted; having been manifestly added after the original conclusion of an act intended to make more severe the penalty and more certain the conviction in case of one who commits the heinous offense of setting up a gambling machine, and thereby inducing others to break the law and to indulge in that habit, the consequences of which are so far-reaching and so disastrous to the happiness and the welfare and the honor of men and women.

Then when the statute laws of the State were again revised and a new compilation made, known as the "Kentucky Statutes," this law, as it existed, after the adoption of this amendment, was carried over into the Kentucky Statutes, becoming §§1960 and 1961 of this compilation; §1961 being the section which contains the exemption of pari-mutuel machines on a race track during a race meet.

Before stopping to consider the extraordinary character of this exemption from the general criminal law of the State, I desire briefly to refer to certain subsequent transactions. At some time—I am not able to state the date—the use of the pari-mutuel machines dropped out and the system of betting by what is known as "bookmaking"—the English system—came in vogue. I do not know just when this occurred, but I do know that in the year 1907 there were no pari-mutuel machines in operation at all, and bookmaking was the system of gambling in vogue on the race tracks in Kentucky.

And just in this connection, I may mention an attack that has been made by the racing interests upon myself, which I would not mention except for the fact that through this nominal attack upon me, there is a made a real attack upon the genuineness of the entire present movement, in which I have been greatly interested.

In the year 1906 certain persons organized a corporation, known as the "Douglas Park Jockey Club," and acquired the old Douglas Park property, just

south of the City of Louisville, and fixed it up as a race track at a cost of over $200,000. This was intended to be a rival of the Louisville Jockey Club, known at that time as the "New Louisville Jockey Club." Just about the time that this Douglas Park Jockey Club got its property fitted up, and after it had spent its money, a statute was passed on March 26, 1906, with an emergency clause declaring it to be effective immediately, and which created a "State Racing Commission," and gave it the power to say when races could be held, and when they could not be held, at different race tracks in the State, of which there were then four separate tracks, owned by four separate corporations, including the recently formed Douglas Park Jockey Club, the rival of the "New Louisville Jockey Club." The President of the New Louisville Jockey Club was appointed by the Governor as a member of this State Racing Commission. The four Jockey Clubs in the State applied to the Commission for dates when they might hold race meetings on their grounds in the Spring of 1906. The dates applied for by three of the clubs were given them by the State Racing Commission, while the date applied for by the Douglas Park Jockey Club was refused, and no date was given to it. In fact the entire Spring racing season was covered by the dates given to the other three clubs, thus excluding the Douglas Park Jockey Club altogether. It believed that an effort was simply being made by some one to ruin it and practically deprive it of the use of its

property and to cause the loss of its entire investment. Whether this belief was well-founded in fact or not, I do not know and will not attempt to argue. I simply state the facts as they were told to me.

At this point I was employed through Mr. Alfred Austrian, of Chicago, and Judge Henry W. Bond, of St. Louis, who were counsel for the Douglas Park Jockey Club, to assist in bringing a suit for the Douglas Park Jockey Club against the members of the State Racing Commission to test the constitutionality of that statute, and particularly of that part which gave it the power to say when a Jockey Club could use its property and when not. The contention of the Douglas Park Jockey Club was that the effect of the statute was to deprive it of its property without due process of law and was, therefore, contrary to the Federal Constitution. And this case was tried out in the Federal Court with the result that the Circuit Court of Appeals at Cincinnati finally held the act to be constitutional, and that was the end of the case, and was the end of my connection with the Douglas Park Jockey Club or any other racing interest.

There was absolutely no question of gambling, either by bookmaking, or by pari-mutuel machines, or in any other form whatsoever, involved in that litigation. It was simply a constitutional question affecting a property right, and nothing else, which I was employed to test, and did test. There is no reference in the State Racing Commission act to the subject of gambling. The statutes concerning gam-

bling, including the statute exempting pari-mutuels from the general gambling statute, is a totally different statute, passed at a totally different time, from the statute that was involved in the Douglas Park Jockey Club case.

It has been charged by the propaganda issued by the racing interests, who are opposing the present movement, and which propaganda has been published all over the State in the country papers as a paid advertisement, that in the Douglas Park Jockey Club case, to which I have referred, I was representing the bookmakers and seeking to destroy the State Racing Commission by which they say "the turf in this State was taken out of the hands of the bookmakers," and the statement is made that the State Racing Commission has exercised its power to force the bookmakers off the tracks, which it is said, was never done before this Commission was created.

Now the fact is that at the time the Douglas Park Jockey Club suit was begun and ended in the year 1906, *there were no pari-mutuel machines in operation in Kentucky at all, so far as I have been able to learn.* I know there were none in operation in Jefferson County, and I am sure there were none anywhere in the State. All the gambling at the race tracks was done through bookmakers. So it is not possible that at the time of this suit there could have been any controversy between the bookmakers and the operators of

pari-mutuel machines. And the condition to which I have referred, to wit, that all the gambling on the race tracks was through bookmakers, continued until the Fall of the following year, in 1907, when the bookmakers were put out of business, *not by the State Racing Commission, but by one courageous Sheriff,* who announced that he was going to enforce the law, and was going to arrest everybody he found engaging in bookmaking, or encouraging or permitting it.

It will be remembered that following the great election contest case, which we had in Louisville, which ran from the year 1905 to the Summer of 1907, when it was finally settled, an entirely new set of officers were appointed for Louisville and Jefferson County to hold office until the next regular election. Among those appointed was Mr. Scott Bullitt as Sheriff; and as the time was approaching for the Fall races of 1907 at Churchill Downs, just outside of Louisville, he wrote a letter to the New Louisville Jockey Club, of which Mr. Chas. F. Grainger was then President, which letter will be found published in full in the Louisville Evening Post of October 11, 1907, in which he said that it was his understanding that at the coming race meet the practice of taking bets on horse races by various persons, commonly known as bookmakers, would be indulged, and would be permitted by the New Louisville Jockey Club; that he was advised that this was contrary to law and that it was his duty, as a peace officer, to see that the law was enforced and all persons arrested

who might violate it, and that he expected to perform his duty.

On the next day, October 12, 1907, Mr. Grainger, as President of the Jockey Club, wrote a letter to the State Racing Commission, which will be found printed in the Louisville Evening Post of October 12, 1907, in which he announced that the Fall meeting at Churchill Downs was called off, as the Club did not care to subject its patrons to annoyance and arrest. And the purpose to hold the meeting was abandoned and no meeting was held that Fall.

At this time there was not a pari-mutuel machine in possession of or under the control of the Louisville Jockey Club, nor, so far as I know or believe, was there one in the State of Kentucky.

But when the Louisville Jockey Club saw that the authorities of Jefferson County were going to enforce the law against gambling on the race tracks, as well as everywhere else, they fell back on the old statute of 1886, to which I have heretofore referred, and which had been carried into subsequent editions of the statute, exempting from the law gambling by means of pari-mutuel machines on race tracks during race meets. And they got these machines in time for the Spring meet of 1908. This appears as a matter of record in a petition filed in the Jefferson Circuit Court on May 4, 1908, by the New Louisville Jockey Club against James F. Grinstead, Mayor, Chas. L. Scholl, Sheriff, *et al.,* No. 50,029, in which the petition of the Jockey Club, sworn to by Mr.

Grainger, after referring to the Sheriff's notice of the preceding Fall against bookmakers, said that the Jockey Club—

> "Knowing that there was no time or opportunity to instal the Paris mutuels or auction pools as permitted by the statute in time before the meeting took place * * * called off said meeting * * * and that immediately after the calling off of said meeting the plaintiff then stated and published that at subsequent meetings * * * it would establish and maintain Paris mutuels and auction pools on its grounds —as by the statute permitted."

In this case Judge Kirby, of the Jefferson Circuit Court, granted a preliminary injunction against Mr. Grinstead and other officials enjoining them from interfering with the operation of the Paris mutuels as authorized by the statute. Mr. Grinstead then went to the Court of Appeals and asked for a writ of prohibition against Judge Kirby, to prohibit him from enforcing this order, but the Court of Appeals held that as the statute authorized the use of pari-mutuel machines on a race track during a race meet, the officers of the law could not prevent it (Grinstead v. Kirby, 33 Ky. Law Rep. 287, 110 S. W. 247).

It was, therefore, the Sheriff of Jefferson County who drove the bookmakers off of the race track in Jefferson County; and the State Racing Commission had nothing whatever to do with it.

The foregoing I know to be facts, because they are facts of public record. And my information is,

though this is not based upon public record, that after the trial of the pari-mutuels on the race track at Churchill Downs, they were found to be so profitable, and so much more profitable than the bookmakers had been to the Jockey Club, that the pari-mutuels were then in time installed on all the race tracks in the State, and the bookmakers forbidden.

The credit. therefore, for driving the bookmakers off the race track is not due to the State Racing Commission, but is due to the Sheriff of Jefferson County. And right here I will say that if this Legislature will repeal the statute that permits betting by pari-mutuels on the race track, we have today a Sheriff of Jefferson County who will stop that form of gambling on the race track in his County exactly as the Sheriff, in 1907, stopped bookmaking on that same track because in violation of law.

The racing interests have gone to the length of insinuating, if not directly charging, in the propaganda sent out by them over the State that this present movement is in the interest of the bookmakers, and that I am representing them. *Such an insinuation or statement is absolutely and absurdly false.* And it will be observed that the present bill repeals the exempting clauses both in the pool-room statute and the bookmakers' statute as well as the exemption of pari-mutuels and will, if enacted, make all forms of gambling illegal on the race track as well as everywhere else.

Let us now continue the legislative history of this matter of race track gambling.

In 1908 the Legislature passed an act known as the "Pool Room" Act, being what is known at present as §3914-b of the Kentucky Statutes, an act which in substance denounces as unlawful the keeping of any room or premises upon which persons congregate to bet on any horse race, and fixing penalties for the violation of the act. But so fearful were the racing interests that something might be done to hinder gambling on the race tracks that there was inserted in this statute a provision (§6 thereof) expressly saying that the provisions of the act should not apply to a race track licensed by the State Racing Commission during a regular race meet. And thus apparently the operating of a pool room on a race track during a race meet is made lawful.

Again at the last session of the Legislature, to wit, the session of 1920, this subject of gambling on horse races was again before that body, and a statute was passed known as the "Anti-Bookmakers' Statute," the substance of which was that it was not only made unlawful to bet on a horse race, but the statute specially denounced any one who should engage in the business of receiving, or negotiating, or transmitting bets on a horse race, and a special penalty was provided for a violation of the statute. But again in the last paragraph of the statute we find the old familiar provision that "The provisions of this act shall not apply to bets or wagers made within the

enclosure of a race track or course licensed by the State Racing Commission during an authorized and licensed race meeting."

And if I understand the meaning of this statute and this exemption even bookmaking is now lawful on a race track. In other words, the racing interests have practically secured the adoption of statutes at different times, the effect of which, all taken together, is that any kind of gambling on a race track is lawful in Kentucky. If this is not what the statutes mean, then I do not understand them. It is true that the Jockey Club may see fit not to let the bookmakers operate, because it would be in competition with the Jockey Club's own pari-mutuel machines. Or it may be that the State Racing Commission may for the present forbid bookmakers, or forbid the Jockey Club to allow bookmakers to come on the track during a race meet; but the law seems to be in such condition that the Jockey Club and the State Racing Commission can do as they please about this matter, and allow *whichever form they prefer,* or may be to their interest—the pari-mutuels today and the bookmakers tomorrow, or *vice versa.*

Now how can such statutes be defended? The original statute against gambling was passed because of the judgment, based upon experience, that gambling is vicious, that it saps the moral fiber, and leads to terrible consequences. And the statute denouncing the man who sets up a gambling machine, and thereby induces others to gamble, was passed on the

theory that such a man is an enemy to society, because he induces others to break the law, and leads to the formation of a habit which is a great social evil and pernicious to society at large. That such is the theory and fundamental principle underlying the law no one can or will deny. And yet this extraordinary exemption statute permits this outrage against society at certain times in the year and certain places in the State. And they are the very times and places where the statute should be most careful to guard against the danger.

Suppose there should be a statute in the State denouncing the pick-pocket as a criminal, and providing a special penalty for him. And then suppose a statute should come along and provide that the pick-pocket statute should not apply to a race course during a race meeting; but that men could pick the pockets of others freely, without molestation and within the law, in the great crowds that assemble at the races. What would anybody say of such a statute? We could not find terms to express our indignation at such an outrageous absurdity in the law. And yet that is exactly an analogous case to the one we are considering. Gambling is denounced as a crime, but the crime is permitted by law among the great crowds that assemble at the race tracks during race meets. There are men and women out there for sport and pleasure; they are taking a day off; they are out for a good time; the very presence of the crowd itself leads to excitement; and under such conditions they

are met by these gambling machines bidding to them to come in and gamble. And thousands are led to do so. Here many take a chance for the first time. They see no harm in doing it just once. They may win and try it again with a hope of repeating the winning. Or they may lose and try again to win back what they lost. With those who already have the habit they are invited to indulge. And to those who have never acquired the habit they are invited to form it. It is a veritable school for gamblers, a gambling "plant bed" so to speak. And when the races are over these same people who have gambled there go out to gamble elsewhere, whether it be by the making of bets upon races run elsewhere, or whether it be to play at roulette or faro, or by the throwing of dice.

Then I repeat, how is it possible for any man to stand up and defend such statutes among the laws of the State?

I hold in my hand a booklet, gotten out by the racing interests, entitled "What the Thoroughbred Means to Kentucky," which is manifestly intended as a defense of the conditions I have described. And what is their defense of this great evil? It is this, that *"it pays."*

Before considering the details of this booklet, let me ask the question, How do you determine that this business "pays"? In order to determine that, you must first determine what it "costs." No merchant or manufacturer can ascertain whether or not his

business is paying until he first ascertains what it is costing. He cannot consider just one side of the account. Then what does this race gambling business cost? You cannot count the cost in money. Its cost is in manhood and womanhood, in character, integrity and happiness. If you are trying to find out whether or not the race meet held in Louisville in May of 1920 did or did not pay, then put down as one item on the debit side of that account a case published in the press during the following winter, in which the story was told, names, places and dates being given, of how a man with a wife and children had worked for thirty-two years for the Chess-Wymond Co. in Louisville, and had saved up money enough to buy a grocery, and had lost it all through gambling on the race track, and had then deserted his family, only to come back when driven by remorse and to be taken back by a forgiving woman, who said to a reporter:

> "As long as the races come to Louisville women will have to go through with what I have gone through. And it is not right, but there is nothing to be done about it."

At what sum do you count that item of cost? Over against the money taken in at the race track by those who won, at what sum, I ask, on the other side of the ledger do you count the loss of the character of the man to whom I have referred? At what sum do you count that woman's broken heart? At what sum do you count the destitution of those children? At what sum do you count that broken home?

Again, take another item, which appeared in the Courier-Journal on June 16, 1920, showing that a young man who had come about two years before from the State of Illinois, where he left an old father and mother, and who brought into Kentucky a wife and two little children, was found to be a defaulter in the sum of $15,000 as an employe of the Standard Oil Co., whose defalcations were found to have run over the past two years in amounts from $19 to $500, and who stated that all the money he had lost had gone into gambling at the races. Over against the rich stakes distributed at Churchill Downs and the money paid out through the pari-mutuel machines to the winner, I say over and against those amounts received, at what on the other side of the ledger do you count the value of that ruined family and that disgraced man?

It is not until you take the account in this way, not until you estimate the loss represented by ruined and disgraced men, and broken-hearted women, and deserted children, that you can foot up the account and determine whether or not race gambling pays.

But let us analyze somewhat further this booklet, gotten out by the race horse people.

This booklet assumes that to abolish gambling on the race track would destroy the thoroughbred. In the first place, who knows this to be true? We have in this State great numbers of thoroughbred cattle. In fact, as shown by the last report of the State Tax Commission, the amount invested in this State, dur-

ing the year 1921, in "registered bulls, cows and calves" exceeds by several hundred thousand dollars the amount invested in pure-bred stallions, mares, geldings and colts. Yet there is no gambling on this pure-bred cattle. They exist, and they continue to exist by virtue of their own merit, their own value. Then if it be true, as is claimed, that the race horse has a real value, aside from being an attachment to a gambling machine, why will he not persist, why will he not continue, just as the pure-bred cattle continue? To concede that the race horse cannot survive the abolition of gambling is to concede that his chief, if not his only, attraction is an attachment to a gambling machine.

But again, concede for the sake of argument, that the abolition of gambling on the race track would destroy the thoroughbred horse, or that it would greatly depreciate his value, and greatly lessen the rich stakes and purses that are now distributed by the Kentucky Jockey Club, let me ask Who would be the losers? Or, to put the question somewhat differently, who are at present the gainers by that for which the State pays such a terrible price? They are not the great body of our people. They are a comparatively few men of wealth, who can afford to own these costly animals. Of course there are some exceptions to this general statement. There are probably some men not of great wealth who may own a race horse or two on a venture. And there may be again still some others. But I have no doubt that

it is substantially true that the thoroughbred horses in Kentucky are owned by comparatively a few people, and they people of large wealth.

Look through the booklet to which I have beeu referring, "What the Thoroughbred Means to Kentucky" and get your information from it. Much is said therein of Man o' War. Who has reaped the harvest which this great animal has brought in? He was bred by August Belmont, a millionaire of New York, and he is owned today by Samuel Riddle, another man of the East, I believe, of Philadelphia, likewise a man of great wealth. No other kind could own such a priceless treasure.

Who got the rich purse won by "Behave Yourself," as the winner of the Derby and "Black Servant," who came in second in the same event, and both of which I believe belong to the same man? It was Col. E. R. Bradley, who is shown by this booklet to have invested in lands and horses alone three-quarters of a million dollars, and who, I understand, has large wealth outside of this investment.

Who has gotten the earnings and the profits from "Sir Barton," described as one of the best horses the American turf has known? It has been John E. Madden, shown by this booklet to have an investment in blue grass lands and thoroughbred horses alone of practically two million dollars, and who probably has other wealth.

Who has collected the great income from "Peter Pan," with his stud fee of $2000.00 for each service?

Mr. Harry Payne Whitney, with his Standard Oil millions.

And so we may go through the list. Those who have reaped the profits from sales of colts at high prices and from the division of rich stakes have been those who owned the horses, and they must necessarily be confined largely to a comparatively few wealthy people, though, as I have said, this rule is not without exception.

One might suppose, however, that the people at large reap a benefit through the taxation of this property with its value reaching, it is said, into the millions of dollars. The question of what they actually paid last year is shown in dollars and cents by the Official Report of the Kentucky State Tax Commission for the year 1921. And from this it appears that this property, alleged to be of such enormous value paid into the treasury of the State of Kentucky in the year 1921, the sum of $803.19, while the honey bees alone of the State paid into the State Treasury for that same year $829.27. In other words, the honey bees paid into the State Treasury $26.08 more than all the thoroughbred horses in the State.

I am not guessing at these figures. You can take the report of the State Tax Commission for 1921 and verify them for yourselves. On Page 48 of that report you will find that the total assessed value for all "pure-bred geldings, mares and colts in the State" was $566,665. And on Page 49 of the same report

you find the total assessed value for all pure-bred stallions in the State to be $236,531. These two figures added together show that the total assessed value for all pure-bred geldings, mares, colts and stallions was $803,196. The State tax on live stock is ten cents on the one hundred dollars of value, which therefore makes the tax on this entire assessed value $803.19. On page 54 of that same report you find that the total tax paid into the State treasury by the bees was $829.27 and these are the figures I gave above.

I am told that the license tax collected by the State on dogs far exceeds the tax paid into the State treasury by all the thoroughbred horses of every kind, but this I have not verified.

Of course in these figures I have not taken into consideration the amount of county taxes or city taxes that may be paid by these animals, because I have no data from which to calculate those amounts. But I speak of the amount paid to the State as State taxes for the purpose of comparing this class of property with other property which also pays State taxes.

In other words, out of all this property, said to be of such vast value, and for the preservation of which the State pays in the sacrifice of its manhood and its womanhood, the State actually received in revenue last year $803.19.

It is said, however, that I have overlooked the tremendous license tax which the Kentucky Jockey Club pays. But I have not overlooked this. I have been speaking of the value of the property involved,

the pure-bred horses of all kinds. I have been speaking of what they, or their owners, pay to the State of Kentucky as a tax. The Kentucky Jockey Club owns no horses. I know it pays a large license tax, and I assume the figure given in this booklet of $270,000 is practically correct. I know that under the statute it is required to pay a license tax of $2500 a day for each day that races are run on any of the tracks owned by it, and I see a statement in this booklet (page 51) that in the year 1921 there were 108 racing days. And 108 racing days at $2500 a day makes $270,000. But what is this? It is not a tax on property. It is a tax on privilege. And the valuable part of this privilege is the gambling privilege. In other words, the Kentucky Jockey Club pays to the State of Kentucky practically $270,000 for the gambling privilege. There is nothing about the mere matter of exhibiting horses, or racing horses, that would justify the State in fixing any such enormous tax on the mere license to exhibit or to race. It is only the fact that the license to gamble exists, and pours a golden stream into the treasury of this corporation, which justifies the tremendous license tax of the Jockey Club.

And what does this mean? It means that the State of Kentucky, which has denounced gambling as a crime, and which has said that the man who operates a gambling machine is such an enemy of society that he is denounced as a felon and declared to be forever infamous, has sold the privilege of com-

mitting the felony, has sold the privilege of debauching its own people, and charges for that privilege $270,000 a year.

Then again there is another aspect of this matter aside from its moral aspect. If gambling be a harmless thing, or, if we may as well recognize, as has been argued, that it is natural for man to gamble, and that it is useless to attempt to curb this universal evil instinct, then why give to one person or corporation alone in all the State the privilege of making money out of this evil propensity? Why not throw down the bars and let everybody gamble at will and to whatever extent they please? Why give to the Kentucky Jockey Club, which owns all the race tracks in the State, the exclusive privilege of commercializing this vicious tendency of mankind? Nobody else can set up a gambling machine anywhere in the State. That one corporation, by virtue of its being the owner of all the race tracks in the State, has the exclusive privilege of operating gambling machines. And what that corporation makes out of this privilege has never been made known to the public. In this booklet, heretofore referred to "What the Thoroughbred Means to Kentucky," many figures are given as to what this corporation pays out; but not one single figure is given as to what it takes in, either from the gambling privilege or from its gate receipts.

Certain insurance companies in days gone by used to publish statements of their assets for the purpose of attracting prospects, without any statement of

their liabilities, and so misleading was this recognized to be, and so apt to deceive the unwary, that a statute was passed under which today whenever an insurance company publishes a statement of its assets, it is required by law to publish with it, and in equally bold type, a statement of its liabilities (Ky. Stats. sec. 624). So with this Kentucky Jockey Club. If it wants the people and this Legislature to know the whole truth, let it publish, not only what it pays out, but what it takes in, giving at the same time the various sources of its revenue, how much from gate receipts, how much from the gambling privilege, etc. Not until such a publication is made are its figures as to expenditures at all enlightening.

It is a known fact that the Kentucky Jockey Club takes out a straight commission of 5% on all the money bet through its pari-mutuel machines, in addition to which it gets certain odd moneys resulting from the division of pools that do not divide evenly, and which odd change I have heard estimated at not less than 1%. If this be true, then it gets a take-out of 6% on all the money passing through its machines. And I have been informed, information which I believe to be accurate, that the money which passed through the pari-mutuel machines at the Derby race at the spring meeting at Churchill Downs in this past year 1921 was $1,320,000. Of course I cannot prove those figures, but they were given to me by one who said he knew they were accurate. And if that is true, and it be further true that their take-out was

6%, then they received out of the money bet on that one race $79,200. I have also heard it stated that in the year 1920 the total amount which passed through the pari-mutuel machines in Kentucky on the four different race tracks aggregated not less than $35,000,000. If the Kentucky Jockey Club's take-out was 6%, its total income from the gambling privilege that year was $2,100,000.

Again I say I cannot prove these figures, because I have never seen the books, but if they are not accurate, the Kentucky Jockey Club can show what figures are accurate. And until they do so, showing not only their gross receipts, but the sources from which they come, the figures they give as to amounts paid out are of but little value.

But whatever may be the exact figures, this gambling privilege of the Kentucky Jockey Club is an exclusive monopoly of enormous value.

I respectfully ask the Committee to report favorably the bill under consideration, the purpose of which is to abolish race track gambling of every kind in Kentucky.